

Appl. No. 09/965,175
Attachment to Amendment
Reply to Office Action of July 29, 2003

PATENT

Certificate of Mailing by Express Mail

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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" under 37 CFR 1.10 on the date indicated above and is addressed to:
Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

Depositor's Name: Margaret A. Connor

Depositor's Signature: *Margaret A. Connor*

Appl. No.	:	09/965,175	Confirmation No. 3943
Applicant	:	Linda S. Thomashow et al.	
Filed	:	September 27, 2001	
TC/A.U.	:	1652	
Examiner	:	Charles L. Patterson Jr.	
Docket No.	:	0229.99	
Customer No.	:	25278	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF DEPOSIT OF BIOLOGICAL MATERIAL
IN ACCORDANCE WITH 35 U.S.C. 112

Linda S. Thomashow declares as follows:

She is a joint inventor with Shannon M. Delaney, Dmitri Mavrodi, and David M. Weller of the subject matter described and claimed in the above-identified application.

Statement of Deposit

Plasmids identified below were introduced into the designated host strains and the transformed strains were deposited under terms of the Budapest Treaty with Agricultural Research Service Culture Collection (NRRL) National Center for Agricultural Utilization Research, Agricultural Research Service, U.S. Department of Agriculture, 1815 North University Street, Peoria, Illinois 61604 USA on the date listed and given the following accession numbers:

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<u>Host</u>	<u>Plasmid</u>	<u>Accession No.</u>	<u>Date of Deposit</u>
<i>E. coli</i> JM109	pUC2.9XP, clone 12	NRRL B-30341	10/06/2000
<i>E. coli</i> JM109	pUC2.9XP, clone 16	NRRL B-30342	10/06/2000
<i>P. fluorescens</i> 2-79	pUC2.9XP, clone 12	NRRL B-30343	10/06/2000
<i>P. fluorescens</i> 2-79	pUC2.9XP, clone 12	NRRL B-30344	10/06/2000
<i>E. coli</i> JM 109	pGEM-PHZO	NRRL B-30345	10/11/2000
<i>E. coli</i> JM109	pGEM-PHZO	NRRL B-30346	10/11/2000

The depository affords permanence of the deposits and ready accessibility thereto by the public if a patent is granted, under conditions which assure (a) that access to the cultures will be available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 CFR 1.14 and 35 U.S.C. 122, and (b) that all restrictions, if any, on the availability to the public of the cultures so deposited will be irrevocably removed upon the granting of a patent. Copies of the NRRL deposit receipts and viability statements are attached.

The undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed October 27, 2003


LINDA S. THOMASHOW

Enclosures:
NRRL Budapest Treaty Deposit Receipts
NRRL Budapest Treaty Viability Statements

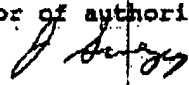
BUDAPEST TREATY ON THE INTERNATIONAL
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSE OF PATENT PROCEDURES

INTERNATIONAL FORM

TO
USDA, ARS
Lab 36 Johnson Hall
Washington State University
Pullman, WA 99164-6430

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT
issued pursuant to Rule 7.1 by the
INTERNATIONAL DEPOSITARY AUTHORITY
identified at the bottom of this page

NAME AND ADDRESS
OF DEPOSITOR

I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR: <i>Escherichia coli</i> JM109p2.9rP-12	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: NRRL B-30341
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
The microorganism identified under I. above was accompanied by: <input type="checkbox"/> a scientific description <input checked="" type="checkbox"/> a proposed taxonomic designation (Mark with a cross where applicable)	
III. RECEIPT AND ACCEPTANCE	
This International Depositary Authority accepts the microorganism identified under I. above, which was received by it on October 6, 2000 (date of the original deposit) ¹	
IV. RECEIPT OF REQUEST FOR CONVERSION	
The microorganism identified under I. above was received by this International Depositary Authority on _____ (date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on _____ (date of receipt of request for conversion).	
V. INTERNATIONAL DEPOSITARY AUTHORITY	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):  Date: 10-24-00

¹ Where Rule 6.4(d) applies, such date is the date on which the status of international
depositary authority was acquired.

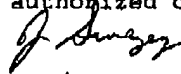
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I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR: <i>Escherichia coli</i> JM109p2.9xP-16	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: NRRL B-30342
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
The microorganism identified under I. above was accompanied by:	
<input type="checkbox"/> a scientific description	
<input checked="" type="checkbox"/> a proposed taxonomic designation	
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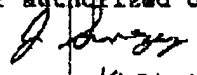
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OF DEPOSITOR

I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR: <i>Pseudomonas fluorescens</i> 2-79p2.9xP- 12(1)	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: NRRL B-30343
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
The microorganism identified under I. above was accompanied by: <input type="checkbox"/> a scientific description <input checked="" type="checkbox"/> a proposed taxonomic designation (Mark with a cross where applicable)	
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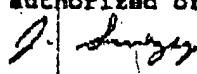
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OF DEPOSITOR

I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR: <i>Pseudomonas fluorescens</i> 2-79p2.9xP- 12(2)	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: NRRL B-30344
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
The microorganism identified under I. above was accompanied by: <input type="checkbox"/> a scientific description <input checked="" type="checkbox"/> a proposed taxonomic designation (Mark with a cross where applicable)	
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OF DEPOSITOR**

I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR: <i>Escherichia coli</i> JM109(pGEM-PH20)	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: NRRL B-30345
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
The microorganism identified under I. above was accompanied by:	
<input type="checkbox"/> a scientific description <input checked="" type="checkbox"/> a proposed taxonomic designation (Mark with a cross where applicable)	
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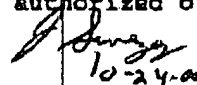
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I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR: <i>Escherichia coli</i> JM109(pGEM-PH20(2))	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: NRRL B-30346
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
The microorganism identified under I. above was accompanied by: <input type="checkbox"/> a scientific description <input checked="" type="checkbox"/> a proposed taxonomic designation (Mark with a cross where applicable)	
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INTERNATIONAL FORM

TO

USDA, ARS
Lab 36 Johnson Hall
Washington State University
Pullman, WA 99164-6430

VIABILITY STATEMENT

issued pursuant to Rule 10.2 by the
INTERNATIONAL DEPOSITARY AUTHORITY
identified at the bottom of this page

NAME AND ADDRESS OF THE PARTY TO WHOM
THE VIABILITY STATEMENT IS ISSUED

I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM
<p>Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 99164-6430</p>	<p>Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <i>Escherichia coli</i> NRRL B-30341</p> <p>Date of: October 6, 2000</p> <p><input checked="" type="checkbox"/> ² Original Deposit <input type="checkbox"/> ² New Deposit <input type="checkbox"/> ² Repropagation of Original Deposit</p>
III. (a) VIABILITY STATEMENT	
<p>Deposit was found: <input checked="" type="checkbox"/> Viable <input type="checkbox"/> Nonviable on October 7, 2000 (Date)</p> <p>International Depositary Authority's preparation was found viable on October 23, 2000 (Date)³</p>	
III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION	
<p>Depositor determined the International Depositary Authority's preparation was</p> <p><input checked="" type="checkbox"/> ² Equivalent <input type="checkbox"/> ² Not equivalent to deposit on <u>November 16, 2000</u> (Date)</p> <p>Signature of Depositor <u>Linda S. Johnson</u></p>	
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositor/Depository)	
V. INTERNATIONAL DEPOSITARY AUTHORITY	
<p>Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority</p> <p>Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.</p>	<p>Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):</p> <p><u>J. Swyg</u></p> <p>Date: <u>10-24-00</u></p>

¹ Indicate the date of the original deposit or when a new deposit has been made.

² Mark with a cross the applicable box.

³ In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

⁴ Fill in if the information has been requested.

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT
OF MICROORGANISMS FOR THE PURPOSE OF PATENT PROCEDURES**

INTERNATIONAL FORM

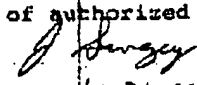
TO

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I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM
Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 99164-6430	Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <i>Escherichia coli</i> NRRL B-30342 Date of: October 6, 2000 <input checked="" type="checkbox"/> ² Original Deposit <input type="checkbox"/> ² New Deposit <input type="checkbox"/> ² Repropagation of Original Deposit
III. (a) VIABILITY STATEMENT	
Deposit was found: <input checked="" type="checkbox"/> Viable <input type="checkbox"/> Nonviable on October 7, 2000 (Date) International Depositary Authority's preparation was found viable on October 23, 2000 (Date) ³	
III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION	
Depositor determined the International Depositary Authority's preparation was <input checked="" type="checkbox"/> ² Equivalent <input type="checkbox"/> ² Not equivalent to deposit on <u>November 16, 2000</u> (Date) Signature of Depositor <u>Glenn J. Thomashow</u>	
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositors/Depository) ⁴	
V. INTERNATIONAL DEPOSITARY AUTHORITY	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):  Date: <u>10-24-00</u>

¹ Indicate the date of the original deposit or when a new deposit has been made.

² Mark with a cross the applicable box.

³ In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

⁴ Fill in if the information has been requested.

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I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM	
Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 99164-6430	Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <i>Pseudomonas fluorescens</i> NRRL B-20343 Date of: October 6, 2000 <input checked="" type="checkbox"/> Original Deposit <input type="checkbox"/> New Deposit <input type="checkbox"/> Repropagation of Original Deposit	
III. (a) VIABILITY STATEMENT		
Deposit was found: <input checked="" type="checkbox"/> Viable <input type="checkbox"/> Nonviable on October 7, 2000 (Date) International Depositary Authority's preparation was found viable on October 23, 2000 (Date) ³		
III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION		
Depositor determined the International Depositary Authority's preparation was <input checked="" type="checkbox"/> Equivalent <input type="checkbox"/> Not equivalent to deposit on November 16, 2000 (Date) Signature of Depositor <i>Gunda S. Thomas</i>		
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositor/Depository)		
V. INTERNATIONAL DEPOSITARY AUTHORITY		
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <i>[Signature]</i> Date: 10-24-00	

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Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 99164-6430		Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <i>Pseudomonas fluorescens</i> NRRL B-30144 Date of: October 6, 2000 <input checked="" type="checkbox"/> Original Deposit <input type="checkbox"/> New Deposit <input type="checkbox"/> Repropagation of Original Deposit	
III. (a) VIABILITY STATEMENT			
Deposit was found: <input checked="" type="checkbox"/> Viable <input type="checkbox"/> Nonviable on October 7, 2000 (Date) International Depositary Authority's preparation was found viable on October 23, 2000 (Date) ¹			
III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION			
Depositor determined the International Depositary Authority's preparation was <input checked="" type="checkbox"/> Equivalent <input type="checkbox"/> Not equivalent to deposit on November 16, 2000 (Date) Signature of Depositor <i>James Thomas</i>			
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositor/Depository)			
V. INTERNATIONAL DEPOSITARY AUTHORITY			
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.		Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <i>[Signature]</i> Date: 10-24-00	

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Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 99164-6430		Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <i>Escherichia coli</i> NRRL B-30345 Date of: October 11, 2000 <input checked="" type="checkbox"/> : Original Deposit <input type="checkbox"/> : New Deposit <input type="checkbox"/> : Repropagation of Original Deposit	
III. (a) VIABILITY STATEMENT			
Deposit was found: <input checked="" type="checkbox"/> Viable <input type="checkbox"/> Nonviable on October 12, 2000 (Date) International Depositary Authority's preparation was found viable on October 23, 2000 (Date) ²			
III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION			
Depositor determined the International Depositary Authority's preparation was <input checked="" type="checkbox"/> : Equivalent <input type="checkbox"/> : Not equivalent to deposit on <u>November 16, 2000</u> (Date) Signature of Depositor <u><i>Hyndes Thomas</i></u>			
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositor/Depository)			
V. INTERNATIONAL DEPOSITARY AUTHORITY			
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.		Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <i>[Signature]</i> Date: <u>10-24-00</u>	

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NAME AND ADDRESS OF THE PARTY TO WHOM
THE VIABILITY STATEMENT IS ISSUED

I. DEPOSITOR Name: USDA, ARS Lab 36 Johnson Hall Address: Washington State University Pullman, WA 99164-6430	II. IDENTIFICATION OF THE MICROORGANISM Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <i>Escherichia coli</i> NRRL B-30346 Date of: October 12, 2000 <input checked="" type="checkbox"/> Original Deposit <input type="checkbox"/> New Deposit <input type="checkbox"/> Repropagation of Original Deposit		
III. (a) VIABILITY STATEMENT Deposit was found: <input checked="" type="checkbox"/> Viable <input type="checkbox"/> Nonviable on October 12, 2000 (Date) International Depositary Authority's preparation was found viable on October 23, 2000 (Date) ¹			
III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION Depositor determined the International Depositary Authority's preparation was <input checked="" type="checkbox"/> Equivalent <input type="checkbox"/> Not equivalent to deposit on <u>November 16, 2000</u> (Date) Signature of Depositor <u>Gynda S. Thomashow</u>			
IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositor/Depository): 			
V. INTERNATIONAL DEPOSITARY AUTHORITY <table border="1"> <tr> <td data-bbox="131 1535 773 1728"> Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A. </td> <td data-bbox="773 1535 1466 1728"> Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <u>[Signature]</u> Date: <u>10-24-00</u> </td> </tr> </table>		Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <u>[Signature]</u> Date: <u>10-24-00</u>
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <u>[Signature]</u> Date: <u>10-24-00</u>		

¹ Indicate the date of the original deposit or when a new deposit has been made.

² Mark with a cross the applicable box.

³ In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

⁴ Fill in if the information has been requested.